

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re:)	
)	
Application Procedures for Broadcast)	DA 15 -1183
)	AU Docket Number 14 – 252
Incentive Auction Scheduled to Begin on)	GN Docket Number 12 – 268
March 29, 2016;)	WT Docket number 12 – 269
)	
Technical Formulas for Competitive Bidding)	Accepted / Filed

NOV 30 2015

To: The Secretary
Attn: The Commission

Federal Communications Commission
Office of the Secretary

PETITION FOR RECONSIDERATION

Walker Broadcasting Company, Inc. ("Walker"), pursuant to 47 C.F.R. §1.429, files this Petition for Reconsideration of the Commission's Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding DA 15 – 1183 (released October 15 2015) ("Order").¹

Walker's license application for a new television station WFBT(DT) on channel 14 in Bath, New York, as well as Walker's request for eligible entity status was denied by the

¹ The Order was published in the Federal Register on October 29, 2015. See Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding, 80 Fed. Reg. 66429 (Oct. 29, 2015) (to be codified at 47 C.F.R. pts. 1, 20, 27, and 73). The Commission modified the Order by a subsequently released, Incentive Auction Task Force Releases Revised Baseline Data and Prices for Reverse Auction; Announces Revised Filing Window Dates DA-15-1296 (released November 12, 2015).

Commission's video division on August 31, 2015.² Walker filed an Application for Review on September 30, 2015 seeking grant of its license application and eligible entity status in the Incentive Auction.³

Walker seeks reconsideration of the Commission's Order excluding Walker as an eligible participant in the Incentive Auction. Walker seeks inclusion in the Incentive Auction pending resolution of Walker's Application for Review. Walker is an entity whose status as the licensee of channel 14 WFBT (DT) Bath, New York is unresolved and pending. As such, Walker meets all the requirements and prerequisites for inclusion in the Incentive Auction.

The Commission's "Incentive Auction R & O"⁴ states, ". . . [W]e conclude that the public interest is best served by extending protection to certain categories of facilities that were not licensed or the subject of a pending license to cover application as of February 22, 2012. More specifically, we will protect: (1) the small number of new full power television stations that were authorized, but not constructed or licensed as of February 22, 2012. . .".⁵ The Commission went on to note, "We also generally will limit our discretionary protection to facilities in the preceding categories that are licensed by the preauction licensing deadline to be announced by the Media Bureau."⁶ Walker meets the criteria for inclusion. It had a pending license application on file as of April 2, 2009.⁷ The license application covered a construction permit issued before February 22, 2012 and was filed before the May 29, 2015 deadline.

² See Letter Decision dated August 31, 2015 Re: WFBT-TV (DT), Bath, New York (Fac. ID No. 72623), FCC file No. BLCDDT-20090402AOD..

³ See Application for Review filed September 30, 2015.

⁴ See, Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions GN Docket number 12 – 268, Report and Order, 29 FCC Rcd. 6567 (2014).

⁵ *Id.* at para. 194

⁶ *Id.* at para. 195 (The references to "licensed" facilities refers to both licensed facilities and those subject to a pending license to cover application. See *Id.* at Footnote 645 (2014)

⁷ See FCC file No. BLCDDT-20090402AOD.

The Incentive Auction R&O specifically provides that parties with licensing issues that are challenged or subject to review are to be included in the auction pending the outcome.⁸ Walker as a party with a timely filed license application which has been denied and is on appeal is precisely the type entity that is intended to be included.⁹

In the Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016, DA 15-1183, released October 15, 2015, the Commission specifically stated: "The Commission determined that eligible broadcast licensees . . . as well as eligible broadcast licensees of facilities subject to a nonfinal license validity proceeding . . . may participate in the reverse auction subject to any incentive payment being held until the pending proceedings are finally resolved."¹⁰ Walker is an eligible broadcast licensee since it had a timely license application on file.¹¹ Walker is also eligible since its license application is the subject of a proceeding to determine its validity.

WHEREFORE, Walker respectfully requests that it be allowed to participate in the Incentive Auction pending the outcome of its Application for Review.

⁸ See generally, Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions GN Docket number 12 – 268, Report and Order, 29 FCC Rcd. 6567 at para. 354, et seq. (2014).

⁹ See Media Bureau Designates May 29, 2015 As Pre-Auction Licensing Deadline, Public Notice, 30 FCC Rcd. 393 (MB January 28, 2015).

¹⁰ See Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding, 80 Fed. Reg. 66429 at para. 44 (Oct. 29, 2015) (to be codified at 47 C.F.R. pts. 1, 20, 27, and 73).

¹¹ See Footnote 6.

Respectfully submitted,

WALKER BROADCASTING COMPANY, INC.

By: 
A. Wray Fitch, III

Gammon & Grange, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102-3807
(703) 761-5000

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